Remarks

The Examiner objected to the oath as being defective because it included non-initialed alterations. Applicants enclose a newly executed oath in compliance with the Examiner's requirements.

The Examiner rejected claims 1-14 and 16-26 under 35 USC § 103 as being obvious in view of USP 5,989,409("Kurnik") over USP 5,767,770 ("Pritchard").

All claims relate to an invention for an electrochemical gas sensor. Applicants respectfully submit the cited art are from different fields of endeavors and would not be considered by one skilled in the art of gas sensors in a rejection under 35 USC § 103. Moreover, even if the cited art were to be considered and combined, the resulting combination would still not arrive at Applicants' claimed invention absent some modification to the references and such modification would be improper. Therefore, Applicants' claimed invention is not obvious in view of the combination of Kurnik and Pritchard.

In order for a combination of references to be proper under 35 USC § 103, there must be some teaching or suggestion in the references to be combined with one another.

Pritchard relates to a biosensor strip that determines concentrates of analyte in fluids. The strip is activated by placing a drop of fluid, such as blood, on the strip. Air

or other gases will not activate the strip. See Abstract and Summary of Invention. Kurnik relates to a method for measuring a concentration of glucose. Glucose is to be a solid or liquid form rather than in a gaseous form. "Electrolytes can be solid, liquid, or semi-solid (e.g. in the form of a gel)...such as quiescent liquid solutions and gel electrolytes..." See Background and Summary of Invention.

Therefore, both Pritchard and Kurnik are in fields of endeavor for measuring a liquid or solid and that is different from Applicants' claimed gas sensors. Applicants further submit the differences are not merely due to variations in use of the inventions because Pritchard's and Kurnik's inventions would not work when subjected to a gaseous mixture. Hence, one skilled in the art cannot use the inventions of Pritchard or Kurnik to measure gas. A drop of fluid is required for Pritchard to function and Kurnik's invention requires a gel or liquid to function. Both inventions do not contemplate measuring a gas. Based on the foregoing, Applicants respectfully submit that Pritchard and Kurnik are not properly combined in a rejection of Applicants' claimed invention because there is no motivation for one skilled in the art to consider a combination of a strip sensor for measuring blood and a method for measuring sugar when evaluating Applicants' invention for a gas sensor.

Even if combined, no matter how unrelated, Applicants also submit that the resulting combination would still not arrive at Applicants' invention. One skilled in the art would arrive at a sensor strip for measuring sugar or a method for measuring blood but

would not, because there is no teaching or suggestion in either reference, arrive at an apparatus for detecting a gas in an unknown mixture. Hence, modifications must be made to the combination of Pritchard and Kurnik in order to arrive at Applicants' claimed invention. In order for any modifications to be properly made to a combination of references under 35 USC § 103, there must be some teaching or suggestion in the art to modify the inventions to detect for the presence of gas. However, as stated above, Pritchard and Kurnik teach use of a liquid or solid to operate properly and, therefore, teach away from Applicants' claimed gas sensor. Based on the foregoing, the rejections with respect to Kurnik and Pritchard should be withdrawn.

The Examiner also rejected claims 27-29 under 35 USC § 102 as being anticipated by Kurnik. Claims 27-29 require an electrochemical gas sensor including an electrode having a porosity of less than 5%, a pore size greater than 0 micrometer and less than .12 micrometer, and a thickness of less than 1 micrometer for controlling flooding. Applicants respectfully submit Kurnik does not disclose a pore size greater than 0 micrometer and less than .12 micrometer. Although Kurnik discloses a porous or nonporous electrode, there is no disclosure of Applicants' specific range of porosity, which is between 0 and .12 micrometer. Because Kurnik does not disclose Applicants' claimed range of between 0 and .12 micrometer, Applicants' claims 27-29 are not and cannot be anticipated by Kurnik.

Respectfully submitted,

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